Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Request to Update Default Compensation Rate for	)	WC Docket No. 03-225
Dial-Around Calls from Payphones	)	RM No. 10568

REPLY COMMENTS OF AMERICATEL

Americatel Corporation ("Americatel"), by its attorneys, hereby submits its reply comments in the above-captioned proceeding.

Americatel provides competitive domestic long distance and international rates to a significant portion of the Hispanic community in the United States through various service offerings, including dial-around and 1-8XX access services.[1] Therefore, Americatel's business interests will be directly affected by the outcome of the instant proceeding.

Americatel strongly opposes any increase in the default compensation rate for dial-around calls from payphones at this time, and in particular, opposes the doubling of the default rate that the American Public Communications Council ("APCC") and the RBOC Payphone Coalition have requested.[2] The Commission recently announced sweeping changes to

[1] For convenience, Americatel will refer to all of the coinless payphone services covered by this proceeding as "dial-around" services.

[2] *See Wireline Competition Bureau Seeks Comment On Petitions For Rulemaking Regarding Payphone Dial-Around Compensation Rate*, Public Notice, DA 02-2381 (rel. Sep. 30, 2001). *See also* Comments of AT&T Corp. ("AT&T Comments") at 1.

the overall payphone compensation regime.[3] Those changes will take effect April 1, 2004. They include a shift in the identity of the carrier responsible for payment and tracking of payphone calls (from the first facilities-based IXC to handle the call to the Completing Carrier), as well as enhanced tracking and audit obligations and, additionally, the imposition of reporting obligations on Intermediate Carriers. These changes are designed to make it easier for payphone service providers to recover the compensation they are due, and should lead to significant increases in the profitability of payphone operations. With such significant changes due to take effect by a date certain in the very near future, it simply makes no sense to attempt to determine the amount of dial-around compensation that fairly represents that call-type's proportionate share of the joint and common costs of payphone operations until the new regime has been implemented and its reporting mechanisms have been allowed to operate long enough to generate – perhaps for the first time[4] – meaningful data from which the true cost of those services can be ascertained.[5]

Indeed, the Illinois Public Telecommunications Association ("IPTA"), in its comments in support of a whopping new default rate of $0.612 per call, cites two reasons for the loss of payphone revenues which its proposed rate hike supposedly would remedy: an increase in

---

[3] *See The Pay Telephone Reclassification and Compensation Provision of the Telecommunications Act of 1996*, Report and Order, CC Docket No. 96-128, (rel. Oct. 3, 2003) ("SBR Order").

[4] *See, e.g.,* Comments of Sprint Corporation ("Sprint Comments") at 20, noting many inefficiencies inherent in the current payphone compensation regime and resulting opportunities for disputes, litigation and mischief, including "incentives for autodialers and false payphone coding," and citing at fn. 29 an example of one company that was billed in excess of one million dollars for possibly fraudulent dial-around compensation charges.

[5] *See e.g.,* Comments of AT&T at 20-23 (discussing the RBOC Coalition's contention that "bad debt" and "collection costs" should be considered in adjusting the default compensation rate, noting that the Commission has previously rejected the inclusion of such costs in the default-rate calculation, and further noting that the underlying problems associated with these issues have been addressed by the changes mandated in the SBR Order.

the use of cellular phones brought about by “a natural market evolution,”[6] and a “lack of compliance” with current compensation requirements.[7]

The record certainly supports the claim that a “natural market evolution” to wireless calls and other payphone substitutes reflects a reduction in demand for, and corresponding reduction in the profitability of, payphone services. Yet, as others have pointed out, it doesn’t follow that raising prices for a technology in decline in order to restore an unspecified level of profitability will halt, slow or have any effect on the root cause of the decline – i.e., the migration from outdated to newer technologies – other than perhaps to hasten the older technology’s demise.[8]

Therefore, Americatel supports those commenters who have pointed out that raising the costs of payphone use by customers of dial-around services will only exacerbate the flight to substitute services that the payphone industry is currently experiencing.[9] Although many of the comments and the NPRM itself focus on wireless phones as the *primary* substitute for payphone use,[10] ANY phone that can be accessed without an additional charge – a friend’s or neighbor’s landline or a business phone – is a viable, and indeed tempting, substitute for a payphone for the user of a dial-around service, since a call from a borrowed landline or business phone creates no additional costs beyond the dial-around charges for either the owner of the

---

[6] See Illinois Public Telecommunications Association (“IPTA”) comments at 10 – 11.

[7] *Id.*

[8] See, e.g., AT&T Comments at 2; Global Crossing Comments at 5.

[9] AT&T Comments at 7; Sprint Comments at 6; Global Crossing Comments at 7.

[10] See, e.g., AT&T Comments at 8; Sprint Comments at 6; NPRM at ¶ 18.

phone or the caller. Indeed, the empirical data presented by Global Crossing[11] that shows a sharp decline in call volume for dial-around calls placed through payphones since the Commission's initial imposition of the current default rate strongly suggests that increasing the current rate will drive down payphone use by dial-around customers even further. Such an outcome (further reduction in payphone use) cannot lead to the "widespread deployment of payphones" envisioned by Section 276 of the Telecommunications Act,[12] but to the opposite of the Act's intent – i.e., to further reductions in payphone profitability, resulting in more payphones being taken out of service.

(Americatel also notes that Global Crossing has suggested that the RBOC Coalition's real interest in this proceeding is to drive up the default compensation rate as part of its members' short-term exit strategy.[13] Americatel takes this opportunity to point out to the Commission that IPTA's comments support this view: IPTA states in its discussion of specific entities that have exited the market since 1996 that, "[o]f the remaining three regional Bell operating companies, SBC has sought to, and Bell South did, exit the payphone market."[14])

---

[11] Comments of Global Crossing at 2-5.

[12] Section 276 of the Communications Act of 1934, as amended, 47 U.S.C. § 276, requires the Commission to "promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public" through the establishment of "a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone . . .."

[13] *Id.* at 8.

[14] Comments of the Illinois Public Telecommunications Association, at 10. Americatel notes that the RBOC Coalition was initially comprised of the payphone arms of Verizon, SBC and BellSouth. *See Petition for Rulemaking to Establish Revised Per-Call Payphone Compensation Rate* ("RBOC Petition")(filed Sept. 4, 2002).

With respect to the second reason IPTA cites for the loss of significant amounts of payphone revenues (compliance issues), the very real problems with compliance and enforcement are precisely the issues addressed by the tracking, audit and reporting requirements in the Commission's recent SBR Order. Therefore, Americatel submits that until those requirements have been given a chance to take effect, re-evaluation of the default compensation rate for dial-around calls is inappropriate.

Although Americatel agrees with Sprint that the Commission should decline to increase the default compensation rate for dial-around calls placed from payphones, Americatel strongly opposes the Sprint "caller pays" proposal and urges the Commission to adopt its tentative conclusion to reject the proposal. Dial-around service is a fiercely competitive market, and dial-around customers generally (and Americatel's customers in particular), are highly sensitive to pricing issues. Just as a price increase through an upward adjustment of the default compensation rate would drive dial-around customers away from payphones in large numbers, so, too, would the imposition of new costs through the payphone operator-determined coin or card charges that would replace, under the Sprint plan, the current default compensation rate. Because a "caller pays" approach is simply another form of price increase that will drive dial-around customers away from payphones, Americatel cannot support such a plan.

CONCLUSION

In conclusion, Americatel strongly opposes any increase in the default compensation rate at this time. The Commission's changes to the payphone compensation regime, announced last October and effective April 1, 2004, must be given a chance to take effect before a meaningful evaluation of a fair compensation rate can be made. Moreover, the record indicates that raising the default compensation rate likely will further reduce payphone use, producing results that are contrary to the goals set out in Section 276 of the Act. For the same reason, Americatel likewise cannot support the "caller pays" proposal advanced by Sprint, which is a price increase by another name.

In light of the foregoing, Americatel urges the Commission to reject APCC's and the RBOC Coalition's unwarranted and unwise call for a doubling of the default compensation rate for dial-around calls from payphones.

Respectfully submitted,

AMERICATEL CORPORATION

By: _//James P. Schulz______

James P. Schulz
Judith L. Harris
REED SMITH, LLP
1301 K Street, NW
Suite 1100 – East Tower
Washington, DC 20005

Tel. (202) 414-9200
FAX (202) 414-9299

Its Attorneys

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Reply Comments of Americatel was served, by the methods noted, this 22nd day of January, 2004, on the following:

Marlene H. Dortch
Secrtary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A-325
Washington, D.C. 20554
By Electronic Filing

Qualax
Portals II
Federal Communications commission
445 12th Street, S.W.
Room CY-B402
Washington, DC 20554
By E-Mail

RBOC Payphone Coalition
Michael Kellogg
Aaron M. Panner
Kellog, Huber, Hansen, Todd & Evans, P.L.L.C.
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
By First Class Mail

American Public Communications Council
Albert H. Kramer
Robert F. Aldrich
Jacob S. Farber
Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street, N.W.
Washington, D.C. 20037
By First Class Mail

Paul J. Zidlicky
Joseph R. Palmore
Sidley Austin Brown & Wood, LLP
1501 K Street, NW
Washington, DC 20005
By First Class Mail

Michael J. Shortley, III
Attorney for Global Crossing
North America, Inc.
1080 Pittsford-Victor Road
Pittsford, NY 14534
By First Class Mail

John E. Benedict
H. Richard Juhnke
Sprint Corporate
400 Ninth Street, NW
Suite 400
Washington, D.C. 20004
By First Class Mail

Michael W. Ward
Michael W. Ward, P.C.
1608 Barclay Blvd.
Buffalo Grove, IL 60089
By First Class Mail

Lawrence J. LaFaro
Stephen C. Garavito
Martha Lewis Marcus
AT&T Corp.
Room 3A225
One AT&T Way
Bedminster, New Jersey 07921
By First Class Mail

_______// James P. Schulz_____________
James P. Schulz